

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

JAMES J. MYRICK	)
	)
Plaintiff,	)
	)
v.	)
	)
The UNITED STATES ARMY,	)
(at PICATINNY ARSENAL)	)
	)
Defendant.	)
_____	)

COMPLAINT

Plaintiff James J. Myrick, by and through his attorneys, brings this action against Defendants, the United States Department of Defense and the United States Air Force, to compel compliance with the Freedom of Information Act, 5 U.S.C. §552 ("FOIA"). As grounds therefore, Plaintiff alleges as follows:

PARTIES

1. Plaintiff is a citizen of the United States and the State of Illinois, residing at 748 Greenwood Avenue, Glencoe, Illinois 60022, within the Northern District of Illinois.
2. The United States Army is an Agency of the United States with a facility and FOIA office at Picatinny Arsenal, New Jersey 07885.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action pursuant to 5 U.S.C. §552(a)(4)(B) and 28 U.S.C. §1331.
4. Venue is proper in this District pursuant to 5 U.S.C. §552(a)(4)(B) and 28 U.S.C. §1391(e) because Plaintiff resides in this District.

STATEMENT OF FACTS

5. On August 15, 2013, Plaintiff sent a FOIA request to Defendant by email ("Request") addressed to the following email address: usarmy.picatinny.ardec.list.pica-freedom-of-information-act@mail.mil. The Request is attached hereto as Exhibit 1.

6. Plaintiff copied himself on the Request, which confirmation email he received the same day Plaintiff sent the Request, on August 15, 2013.

7. On or about August 15, 2013, Plaintiff also mailed an additional copy of the Request ("Additional Request") via certified mail from the United States Post Office in Glencoe, Illinois, to the Defendant at the following address:

Commander
ATTN: Freedom of Information and Privacy Act Office(ers)
Picatinny Arsenal, NJ 07806-5000

8. Pursuant to 5 U.S.C. §552(a)(6)(A), Defendant was required to respond to the Request by September 13, 2013, i.e., within twenty (20) days (excepting Saturdays, Sundays, and legal public holidays) from receipt of the Request on August 15, 2013, but Defendant failed to respond by September 13, 2013, or by any other date.

9. As of the date of this Complaint, Defendants failed to: (i) produce any records responsive to the request; (ii) demonstrate that responsive records are exempt from production; or (iii) notify the Plaintiff that unusual circumstances exist so as to allow the Defendant additional time to respond to the Request. In short, Defendant has not responded to the Request or the Additional Request in any manner.

10. Because Defendant failed to comply with the time limits set forth in 5 U.S.C. §552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to the Request pursuant to 5 U.S.C. §552(a)(6)(C).

COUNT 1

(Violation of FOIA, 5 U.S.C. §552)

11. Plaintiff realleges paragraphs 1 through 10 as if fully stated herein.

12. Defendant failure to provide the records responsive to the Request, or to either demonstrate that responsive records are exempt from production or to notify the Plaintiff that unusual circumstances exist so as to allow the Defendants additional time to respond to the Request and the Additional Requests violates 5 U.S.C. §552.

16. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of the requested records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests for the Court to: (1) order Defendant to conduct a search for any and all records responsive to Plaintiff's Request, and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the Request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to the Request, and a Vaughn index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's Request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. §552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: September 16, 2013

Respectfully submitted,

PLAINTIFF, JAMES J. MYRICK

By: /s/ William M. Stevens
One of his attorneys

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